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ABSTRACT

Most professional psychologists who practice with children will face the ethical dilemma of child abuse reporting at some point in their careers. This paper explores the ethical dilemma inherent between ethics that charge psychologists to always choose a course of action best serving the client and mandatory child abuse reporting laws. Some of the current definitions of the laws and of ethical principles are reviewed, along with relevant statistics and research. The current practices in child welfare and law enforcement, which the professional psychologist should be aware of when faced with making a report of suspected child abuse, are also detailed. The paper is organized around questions which encourage the reader to assess his or her position on this issue and it offers several short- and long-term interventions for the problem of child abuse. It concludes that the available evidence suggests it is in the best interest of all children to report perpetrators of child abuse when legally mandated, but, with awareness of the therapeutic and legal consequences. (Contains 73 references.) (RJM)

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Mandatory Reporting of Child Sexual Abuse and the Responsibility to Serve the Best Interest of the Client: An Ethical Dilemma?

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Abstract

Most professional psychologists who practice with children will face the ethical dilemma of child abuse reporting at some point in their careers. Presently, each state has mandatory child abuse reporting laws which include variations of criminal and civil liability for the professional who defers the reporting decision. However, the Ethical Principles of Psychologists and Code of Conduct (1992) charge the psychologist to always choose a course of clinical action which serves the best interest of the client. This paper explores the ethical dilemma inherent in this issue by reviewing current definitions of the laws and ethical principles, relevant statistics and research, and the current practices in child welfare and law enforcement which the professional psychologist should be aware of when faced with making a report of suspected child abuse. Additionally, this paper is organized around questions which encourage the reader to assess his or her position on this issue. This paper concludes with several suggested short and long term interventions to the pervasive problem of child abuse in society.

Responsibility to Serve the Best Interest of the Client:

An Ethical Dilemma?

The Ethical Principles of Psychologists and Code of Conduct (1992) of the American Psychological Association charge psychologists to make every effort to protect the welfare of those who seek services . . . to respect the integrity of the people and groups with whom they work . . . to fully inform consumers as to the purpose and nature of an evaluation, treatment, educational or training procedures. A psychologist who chooses a clinical practice serving children will realize ethical dilemmas when faced with reporting suspected, alleged or admitted child abuse. The intent of this paper will be met through exploring a series of questions addressing the many facets of this issue.

The first question addressed is, what are the distinctions between an ethical principle, ethical dilemma and the law? The American Heritage Dictionary (1985) defines ethics as "a principle of right or good conduct; the rules or standards governing the conduct or members of a profession," (p. 467). A law is defined as "a rule established by authority, society or custom," (p. 718). A dilemma is defined as "a situation that requires one to choose between two equally balanced alternatives," (p. 397). Thus, an

ethical dilemma can be experienced in the situation where a psychologist is confronted with both the issue of mandatory reporting of child abuse and the concern regarding the effect of the reporting on the clinical relationship and ultimately on the child. This is a multifaceted issue and will be closely examined.

However, psychologists, must represent the best interest of the client. In the clinical practice with children, is it possible to fulfill this ethical principle and comply with the mandatory reporting laws? Does the law supersede ethical principles, because the law represents a larger constituency? In the democratic process the answer would be a resounding yes. But what if the profession has a clear insight into the effects and shortcomings of the law and legal process? Or into the inefficiency and limitation of the justice system along with the possibility of additional trauma being imposed on the already traumatized child by the interventions of the child welfare system?

A review of the percentage of practitioners who are unfamiliar with the mandatory reporting laws and who elect not to report, even when they are knowledgeable of the laws, suggests of the problematic nature of this issue. Finlayson & Koocher (1991) surveyed 269 doctoral level pediatric

psychologists presenting vignettes that described varying degrees of specificity of symptoms commonly seen in clinical presentations of child sexual abuse. Findings indicated that at the most specific level of symptom presentation, at which 92% of the respondents had substantial suspicion that abuse had occurred, only 74% would definitely report. Watson and Levine published a related study in 1989, in which a review of 60 outpatient cases for which there was adequate data to file a report revealed that in 17 cases, or 28%, reports were considered but not made. Watson and Levine's study reported that the two most salient reasons for not reporting were related to the perpetrator being in treatment at the time the report was considered and the practitioner's belief that there was insufficient data to support the allegations. Additionally, it appears that race and family composition are factors involved in the decision to report, as whites and two parent families were under reported in the research findings. Zambelli and Lee (1985) provided a fairly extensive list of reasons for failure to report child abuse which were reflected in the literature. These reasons included: definitions of sexual abuse are unclear; lack of training and lack of knowledge of the laws on the part of the professional; conflict of interests - parental rights vs. child rights; desire to maintain confidentiality; fear of therapeutic

alliance being destroyed; basic philosophic disagreement with the law; inability to guard against false reports; concern that treatment outcomes for child and family will be worse after report is made; pressure of one's peer group not to report. The number of reasons practitioners cite for not reporting indicate the strength of the concern. Underreporting may be significantly underestimated in the studies cited previously.

Another relevant question is what is the actual prevalence of child abuse? The National Committee for the Prevention of Child Abuse (NCPCA) published a report (1991) that indicates a national increase of 31% in reports of child abuse for the period between 1985 and 1990. For the reporting period, 1989-1990, there were an estimated 2,508,000 children reported to child protective service agencies as victims of child abuse, or about 39 out of every 1000 children.

A related question is what occurs after a case has been substantiated? In a NCPCA survey (1991), only 26 states could provide an estimate as to the percentage of substantiated cases which receive child protective services. The estimates ranged from 19% to 100%. The survey indicated significant variations with some states such as Maryland and Massachusetts offering services to both abusive and at risk families, while other states, such as Texas, providing

services to less than 50% of confirmed abuse cases. Overall, the services primarily were limited to case-management and foster care. Therapeutic services, particularly for the victims, were noted as far more limited.

Compliance with the law should involve an understanding of both the consequences of abuse and the consequences of intervention. The consequences of child maltreatment have been addressed by many studies. For example, studies have documented that early life trauma can result in various psychological consequences and delayed development in physically abused children(Oates, 1985); post traumatic stress disorder (Terr, 1985); maternal deprivation can result in attachment disturbances (Bowlby, 1985). Herman et al., (1986) found that half of a survey population of women who were sexually abused as children perceived that incest has lasting negative effects including anxiety, distrust, and difficulty in forming and maintaining intimate relationships. Furthermore, Herman, et al., reported that the more significant the relationship between victim and perpetrator, (i.e., father or stepfather), the more likely the victim reported severe and long-lasting emotional consequences.

Several authors (Eth & Pynoos, 1985; Terr, 1985; Wolfe, Gentile & Wolfe, 1985) suggest the effects of child sexual abuse result in psychological consequences similar to that of

post traumatic stress disorder diagnosed in war veterans. Van der Kolk (1987) has identified this phenomenon in children and suggests interruption of cognitive and psychosocial development. Goodwin's (1988) research tends to support this thesis, that is "abuse in children initiates a syndrome which includes: (1) fears and anxiety, (2) re-enactment of the abuse, (3) nightmares and depressive symptoms, (4) ego constriction, and (5) disturbed discharge of aggression," (p. 481).

The consequences of child abuse would seem sufficiently compelling to support the decision to report to the authorities. However, in reviewing what happens to the child and family after the report is made, questions of concern include: What is the role of child protective services? What are the consequences to the therapy? What are the experiences of the child and family?

The role of the child protective service agencies varies some from state to state, but in most states their mandate is to investigate allegations of abuse and neglect and to coordinate treatment services in the community. Although most protective service departments would maintain a position that every effort will be made to resolve the problems that resulted in the abuse without disruption of the family, many children are removed from their homes each year and placed in

foster care or some form of emergency placement. As of the end of the reporting period for fiscal year 1988, 329,918 children were in either a private or state foster home based on actual reports to American Public Welfare from 49 states and jurisdictions. This source also indicated that the length of continuous stay based on the history of 93,219 children who left care at the end of fiscal year 1988 is as follows:

Length of stay in foster care	Percentage of children in care
0 - 6 months	44.2% (41,202 children)
6 - 12 months	14.8% (13,796 children)
1 - 2 years	16.6% (15,474 children)
2 - 3 years	8.1% (7,550 children)
3 - 5 years	7.8% (7,271 children)
5+ years	6.1% (5,686 children)
unknown	2.4% (2,237 children)

(Based on data from 24 states and jurisdictions representing about 54.5% of the children who left care in 1988. Source: Pat Shapiro, American Public Welfare, personal communication, March 16, 1992.)

Of relevance to this paper is the number of children experiencing multiple placement while in foster care. Data from 19 states and jurisdictions which represented 183,168

children in care at the end of fiscal year 1988 indicated the following percentage of children's history of multiple placements:

1 placement:	45.3%
2 placements:	25.4%
3-5 placements:	22.3%
6+ placements:	6.5%
unknown:	.5%

(Source: Pat Shapiro, American Public Welfare, personal communication, March 16, 1992.)

The effects of separation of children from their parents have been extensively studied. Litner (1973) suggests that the initial psychological challenge for the child in placement is the need to master the painful feelings experienced with the separation from his parents. Furthermore, these feelings may include a sense of abandonment, anger, a fear of desertion or death of his parents or perhaps a fear of his own death. Goldstein, Freud & Solnit (1979) stress that any decision regarding placement of a child should rest exclusively on the child's emotional and developmental needs. These authors remind us that successful development is dependent upon the child's ability to trust the adults who are responsible for his care and control as he grows toward being fully

independent and more self-reliant.

Implications for child placement are that children should not have to experience shifts in placement with each tentative case management decision. Goldstein, Freud & Solnit believe that each child placement should be as permanent as the placement of the newborn infant with his biological parents. The only exception made is when the placement is determined to be brief and temporary, as in the case where a brief foster placement precedes a permanent placement.

There may be inherent problems in foster care. Goldstein, Freud & Solnit believe that the emotional restrictions imposed on the relationship between foster parent and child limits the likelihood of facilitating the psychological parent-wanted child relationship. This does not preclude the possibility for effective foster care, as there have been numerous success stories of children who grew up in foster care, however, the present shortage of foster homes, overcrowding and multiple placements increase the risk for further emotional damage to the developing child. Multiple placements create risks for exacerbating developmental lags irrespective of age of the child at placement.

Most professionals would agree that allowing the child to remain in any abusive atmosphere is inappropriate, and that the concerns of placement outside of the home are grave, thus

the dilemma. There are alternatives. Reamer (1983) provides the following suggestions:

1. Simply ignore the duty to report when it arises and risk civil and criminal consequences;
2. Ignore the potential conflict until it arises - that is, fail to fully explain confidentiality and the limits thereof to clients;
3. Fully inform clients prior to beginning therapy, explain the risks involved in disclosure and the pertaining laws. Obtain a signed statement of informed consent;
4. Function as an agent of coordination and cooperation between the family and the authorities - reducing the trauma of official investigation while also protecting the welfare of the endangered child.

The third and fourth suggestions appear to be the most reasonable alternatives with the highest potential for a positive therapeutic outcome. Psychologists and other clinicians should be cognizant, however, of the potential for role conflicts and dual relationships. This recommendation requires familiarity with the child abuse statutes, child protective service delivery system, alternative family arrangements depending on the cooperation of the perpetrator,

community referral sources and advocacy beyond the traditional psychotherapy role. The treatment that follows a disclosure of child abuse can attain optimal effectiveness only if there is a comprehensive treatment plan that offers individual treatment for the child, perpetrator and other parent, perpetrator group therapy, child survivor and sibling group therapy, marital and family therapy.

A type of multifaceted, intensive family centered treatment model was originally developed by Giaretto (1976). Private practitioners may not have access to such a comprehensive program, but can coordinate a representative team by establishing a referral network of qualified professionals and clear lines of communication between the professional team members and the family, who should be considered as part of the treatment team. It is also important that this comprehensive treatment service be available to families at an affordable cost. Involvement of many professionals can be costly. A consortium of private practitioners may be able to access underwriting through various funding sources. Another option is to form therapeutic liaisons with community mental health agencies which may offer some of the needed services with referral of clients to them for the services that the individual practitioner is not qualified to provide. Consultation and

supervision can enhance the treatment process, with specific attention paid to cross-cultural factors, socioeconomic stressors and extended family support system.

Another area for providing alternatives to out-of-home placement of the child is the development of legislation that would empower authorities to remove the perpetrator from the home instead of the child. Such legislation was passed in California recently which requires removal of the perpetrator from the home when there is suspicion of child abuse, even though there may not be robust evidence against him or her. Under the law, which took effect Jan. 1, 1990, police can obtain a restraining order against one or both parents, who can return home only after a judge has determined there is no longer reason for the order. If similar legislation was adopted throughout the U.S., it would be important that the perpetrator be allowed to continue his or her employment while involved in the investigation, so as not to incur additional stressors on the family.

This option would of course not be available if there was reason to suspect retaliatory behavior or evasion of investigation. The perpetrator could be housed in a therapeutic shelter and begin mandated therapy immediately after removal from the home. This would allow the remaining family members to remain in their environment and assist in

minimizing the stigma, abandonment and guilt experienced by the victimized child. Additionally this could also represent significant cost savings to the state, with a decreased need for foster care and perhaps the reduction of costs incurred through lengthy court procedures.

After review of factors to be considered in reporting suspected or confirmed child abuse, it is understandable why many professionals experience ambivalence, or place themselves at risk for civil and criminal action for failing to report. Zambelli and Lee (1985), building a model proposed by Van Hoose and Kottler (1977), offer a decision making tool for child practitioners when confronted with a situation of suspected abuse. The model appears to be based on factual knowledge, the ethical principles and the best interests of the child. It should be noted that this model does not imply that the practitioner has a choice whether or not to report suspected child abuse. The Guidelines for Decision-Making When Reporting Child Sexual Abuse consists of the following stages and guidelines:

1. <u>Recognize the problem:</u>

- Know the state laws and agency policy.
- Develop an operational criteria for the diagnosis of sexual abuse in your agency.
- Train staff members and supervisors to identify potential

indications of sexual abuse.

- Develop criteria for the minimum standards of parenting.
- Inform each client of the reporting obligation at the onset of treatment .

2. <u>If sexual abuse is suspected, gather information and structure it:</u>

- Decide if the child has been harmed or is at risk of harm in the near future.
- Be aware of the specific cultural and socioeconomic factors which impinge on the family, such as financial dependency on the perpetrator, etc.
- Discuss the matter with the child and, if possible, the family.
- Discuss the situation in supervision or with peers.
- Be aware of your own countertransference and theoretical biases.

3. <u>Decide action:</u>

- Consider the options.
- a. Ignore the requirement of reporting sexual abuse in service of higher ethical imperatives and run the risk of civil [and criminal] liability.
- b. Use the obligation to report to coerce the patient [parent] to stop abusive behavior.
- c. Comply with the mandate and deal with the therapeutic

consequences.

4. Carry out action:

- If you decide to report:
- Inform the parent of the legal requirement to report abuse.
- Be direct, honest and straight forward to the client.
- Keep parents informed about what is happening.
- Develop follow up mechanisms for reported cases, such as a communication protocol with the protective service and court systems.
- Be aware of all state laws and statutes and their implications.
- Obtain consultation where necessary.

5. Assessment of decision and action:

- Evaluate results by following up on the case.
- Attempt to revise any agency procedures which imped the decision making or follow up process.
- Continue to be aware of personal biases, countertransference or values which may influence judgement and actions. (Zambelli & Lee, p. 15).

Regardless of whether the intent is to serve the best interest of the child, the present system of child protection and child welfare contains inconsistencies, ambiguities, and

the potential to exacerbate the original trauma through painful inquiry, examinations and displacement from the family. However, in light of available evidence, it serves the best interest of all children to report perpetrators of child abuse when legally mandated, but, with awareness of therapeutic and legal consequences. We are also obligated, both ethically and morally, to continue to work toward refinement of the system we have created to serve and protect children and to change societal attitudes which allow for even one child to be brutalized or maltreated.

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